

Effective Date Statewide	Revision Date
June 30, 2005	New Document

FORFEITURE OF PROPERTY

Description:

Property that is seized by law enforcement may be forfeited to the state. To bring the matter before the court, the state must file either a civil case or file a criminal Forfeiture of Property charge.

Reference:

Utah Code Annotated §[58-37-13](#)

Overview:

*When property is seized by law enforcement the state may seek to take permanent possession the property. The state has two options in bringing the matter before the court. The state can file a **civil** case or they can include a forfeiture of property charge (UCA 58-37-13) in a criminal case.*

Whether filed as a civil case or part of a criminal case, the court is required to:

- q Determine if the forfeiture of seized property is proper.*
- q Ensure that seizures and forfeitures of property from private citizens are in proportion to the violation of crime committed.*
- q Ensure direct control and accountability over the use and sale of the forfeited property and the revenue resulting from the disposal of the same.*

Property that is ordered forfeited by the court is turned over to the Utah Commission on Criminal and Juvenile Justice (CCJJ). The prosecution or law enforcement that has possession of the property must transfer the property to CCJJ upon order of the court. CCJJ is tasked with converting the property to fund justice programs.

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Procedure/Computer Entry

Civil Forfeiture of Property

4. **Identifying a Civil Forfeiture of Property Case – The Cover Sheet**

- a. When a civil Forfeiture of Property complaint is filed the accompanying cover sheet will have the Forfeiture of Property box checked. ([example cover sheet](#))
- b. Civil Forfeiture of Property complaints are very distinctive. Instead of the name of defendant, the defendant listed on the complaint will be the description of the property.

Example

State of Utah

vs.

FOUR HUNDRED DOLLARS

When filing cases the correct case type must be used. In Forfeiture of Property cases this is extremely important. The state receives a quarterly report of all Order of Forfeiture judgments issued by the court and checks that against local prosecutor records. There have been cases in which local prosecutors and the courts records did not match because the forfeiture of Property cases were filed using another case type. If a cover sheet is not included with the filing, contact your supervisor for direction

5. **Computer Entry**

- a. You have determined that the case should be filed as a **Forfeiture of Property**. To file the case in CORIS go to **CASE > CIVIL FILING**.
- b. Select case type as **Forfeiture of Property**.

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The screenshot shows the 'Civil Filing' application window. The 'Case Type' dropdown is open, with 'Forfeiture of Property' selected. The 'Filing Date' is set to 01/11/2005. The interface includes various input fields for case details and a set of action buttons at the bottom.

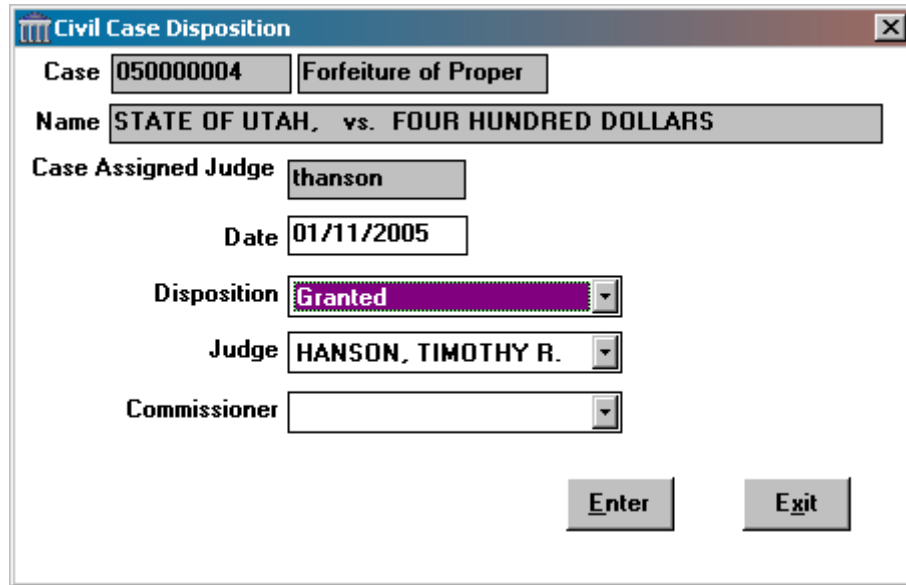
- c. Enter the parties as they appear on the complaint (i.e. State of Utah vs. Four Hundred Dollars). State of Utah as the plaintiff (PLA) and Four Hundred Dollars as the defendant (DEF). Continue filing the case just like any other civil case.

NOTE: If a hearing is held in the matter and the judge grants the forfeiture in court, **do not** enter the disposition until the judge signs the order. When the physical order is signed by the judge, enter the disposition of **Granted** and the date the order was signed in CORIS. *Once the disposition is entered, the case will be reported to CCJJ and you will be contacted to get a copy of Order for Forfeiture Judgment.*

3. Entering the Order

- a. When you receive the Order for Forfeiture Judgment signed by the judge, enter the disposition on the case. In CORIS go to **CASE > CIVIL CASE DISPOSITION**.

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The screenshot shows a window titled "Civil Case Disposition" with a close button (X) in the top right corner. The window contains the following fields and controls:

- Case:** A text box containing "050000004" and a dropdown menu showing "Forfeiture of Proper".
- Name:** A text box containing "STATE OF UTAH, vs. FOUR HUNDRED DOLLARS".
- Case Assigned Judge:** A text box containing "thanson".
- Date:** A text box containing "01/11/2005".
- Disposition:** A dropdown menu with "Granted" selected and highlighted in purple.
- Judge:** A dropdown menu showing "HANSON, TIMOTHY R.".
- Commissioner:** A dropdown menu that is currently empty.
- Buttons:** "Enter" and "Exit" buttons located at the bottom right of the window.

- b. Entered **Granted** and the date the order was signed.

NOTE: Be sure to enter the order and the disposition in a timely manner. There have been cases where CCJJ has received a copy of the Order for Forfeiture Judgment and the disposition had not yet been entered on the case.

Criminal Forfeiture of Property

1. Identifying a Criminal Forfeiture of Property Case – The Information/Amended Information

- a. On Criminal Forfeiture of Property, an Information or Amended Information is filed with a charge of ***Demand for Forfeiture of Property***, violation code **58-37-13**. The severity on all Demand for Forfeiture of Property charges should be **N/A**.

NOTE: *There will be other charges on the Information. Those charges are usually related to the property that was seized.*

2. Computer Entry

- a. File the criminal case the same as all other criminal cases. In CORIS go to **CASE > CRIMINAL FILING**.
- b. Enter all the charges as they appear on the Information with the severity listed on the Information. On the Demand for Forfeiture of Property (58-37-13) you must enter the severity as **N/A**. (see example below)

Criminal Filing

Filing Date: 1/11/2005 Case Number: [] Disability: ☐ Sealed: ☐

Law enforcement agency: TOOELE POLICE Prosecution: TOOELE COUNTY Citation: [] Judge: [] Commissioner: []

Last Name: DOE Offense tracking #: [] OTN Not Available: ☒

First Name: JOHN Birth Date: [] Social security number: []

Address 1: [] Commercial Drivers License: ☐ DL/OTN Search: []

Address 2: [] Drivers license number: []

City, St, Zip, Cntry: [] UT [] Drivers license state: UT []

Note: []

Violation Date: 11/01/1905 Violation Location: [] Domestic Violence: ☐

Alt Charging Agency: de Novo Attach: ☐ Schedule: ☐ Link: ☐ Vehicle: ☐ Filed from an: ☐

Courts Offense List: [] an attorney: ☐ Event: ☐ Co-defendants: ☐ Info: ☐ information: ☐

Seq	Gov	Violation Code	Violation Description	Severity	Inchoate	Attribute 1	Attribute 2
1	UT	76-6-404	THEFT	F3		--	--
2	UT	58-37-13	DEMAND FOR FORFEITURE	NA		--	--

Repeat Charge: [] Prosecution: [] Add Charge: [] Delete Charge: [] Spec Proc: [] Find Violation: []

Total Charges: 2

Old case number: [] Agency Info: [] Judge Assign: [] Enter: [] Exit: []

Print Barcode: ☐

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NOTE: Demand for Forfeiture of Property charges are **not** reported to BCI.

3. Entering the Finding

- a. When the case is resolved by a guilty plea, jury trial, dismissal etc., enter the finding on each of the charges. If there is a finding of **guilty** or the defendant **agrees** to the **forfeiture of property**, must enter a finding of **Forfeiture Judgment**. (see example below)

Charges							
Case		051000052		State Felony		Domestic Violence <input type="checkbox"/>	
Name				DOE, JOHN			
				Violation Date		11/01/2004	
				Violation Location			
Seq	Gov	Violation Code	Violation Description	Severity	Inchoate	Amend Date	
1	UT	76-6-404	THEFT	F2			
		Reduced From DUI <input type="checkbox"/>	Plea	Guilty	Disposition/Date		Guilty 1/12/2005
2	UT	58-37-13	DEMAND FOR FORFEITURE OF	NA			
		Reduced From DUI <input type="checkbox"/>	Plea	Guilty	Disposition/Date		Forfeiture Judgment 1/12/2005

Total Charges: 2

Repeat Charge

Special Processing

Amend Charge

Original Charge

Disposed By

Find Violation

Attributes

Amend Info

Prev Info

Alt Charging Agency: Courts Offense List

Add

Delete

Enter

Exit

- b. If the prosecution dismisses the Demand for Forfeiture of Property charge, or states that they will not be demanding the property, or the court makes a finding of **not guilty**, you must enter a finding of **Dismissed**. (see example below)

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Charges							
Case		051000052		State Felony		Domestic Violence <input type="checkbox"/>	
Name		DOE, JOHN			Violation Date		11/01/2004
					Violation Location		
Seq	Gov	Violation Code	Violation Description	Severity	Inchoate	Amend Date	
1	UT	76-6-404	THEFT	F2			
		Reduced From DUI <input type="checkbox"/> Plea		Guilty	Disposition/Date		Guilty 1/12/2005
2	UT	58-37-13	DEMAND FOR FORFEITURE OF	NA			
		Reduced From DUI <input type="checkbox"/> Plea		Not Guilty	Disposition/Date		Dismissed 1/12/2005
Total Charges: 2		Repeat Charge		Special Processing		Amend Charge	
Disposed By				Find Violation		Attributes	
Alt Charging Agency:		Courts Offense List		Add		Delete	
				Enter		Exit	

4. Entering the Order

- a. When you receive the Order for Forfeiture Judgment signed by the judge, enter the finding disposition on the Demand for Forfeiture of Property charge. In CORIS go to **CASE > CHARGES**. If the finding is *not* **Forfeiture Judgment**, change it to reflect the order. Enter the date order was signed.

NOTE: *There are cases where the Demand for Forfeiture of Property charge is dismissal on the record (possibly as part of a plea agreement), then later on the judge signs an Order for Forfeiture of Property. Once an order to forfeit the property has been signed, the clerk **must go into the charges screen** and verify that the finding on the Demand for Forfeiture of Property charge matches the order. If it does not a clerk shall change the finding to **Forfeiture Judgment**.*

Resources :

Utah Code Annotated §58-37-13

http://www.le.state.ut.us/~code/TITLE58/htm/58_12018.htm